

DECISION NOTICE

Western Area Licensing Sub Committee

Decision made on 25 January 2013

In respect of an Application for Review of a Premises Licence; Trowbridge Cricket & Sports Club, Lower Court, Trowbridge, Wiltshire BA14 8PX

Decision:

The Western Area Licensing Sub Committee has resolved to amend the Premises Licence for the Trowbridge Cricket & Sports Club, Lower Court, Trowbridge as follows:

1. To remove recorded music from the licensable activities permitted by the licence.
2. To include a condition that no amplified live music can be played at the premises at any time. The provisions of s. 177A(4) of the Licensing Act 2003, as inserted by the Live Music Act 2012, are to apply to this condition.
3. To remove the additional conditions 2) i – iv, imposed at the hearing on 6 January 2011, as they are now inconsistent with the removal of amplified live and recorded music from the premises licence.

Evidence Presented

Extent of the Noise Problem

The Sub-Committee were addressed by Mr. Graham Steady, Public Protection Manager for the North and West Areas of Wiltshire Council, and also heard evidence from Mr. Richard Francis, Senior Environmental Health Officer and Linda Holland, Senior Licensing Officer, in support of the review application. These officers referred to the history of their dealings with the cricket club premises, including the service of an abatement notice in May 2010. The Sub-Committee were informed, both in witness statements and in oral evidence, of a number of incidents when officers of the Council had attended residential premises in Downhayes Road, following complaints about the level of music coming from events taking place at the cricket club. The Sub-Committee were also played a recording from noise monitoring equipment that had been placed in the bedroom of 23 Downhayes Road. Mr. Steady stated that, on a number of these occasions, the officers concerned had concluded that the level of noise constituted a public nuisance.

The sub-committee also heard evidence from Tracy Gates of 23 Downhayes Road, regarding the problems she and her family had suffered as a result of the noise from live music events that were held at the cricket club.

In response Mr. Colin Poplett, on behalf of the Cricket Club, explained the steps that the Club took to control the levels of music during events at the premises. He also presented to the Sub-Committee the responses to questionnaires that had been circulated to a number of properties in the vicinity of the cricket pavilion and drew attention to the fact that all of the respondents had indicated either that they could not hear any music from the premises, or that they were not caused any problems by it. The validity of this survey was challenged by Ms. Gates, on the basis that not all properties in the area had received a copy of the questionnaire and that its tone could have led to others who had been affected by the noise being reluctant to send in their views.

Structure of the Premises

The Sub-Committee heard evidence regarding the structure of the cricket pavilion and the difficulties that this presented in trying to control the escape of amplified music. They were informed of the steps that had been taken since the granting of the premises licence in January 2011, including the installation of a noise limiter to be used during live music events. In addition, the Council had commissioned a report from independent consultants. Although those consultants had recommended a number of structural changes to address the escape of music, there was now some doubt as to whether those changes would resolve the problems, given the intrinsic nature of the structure, which was not suitable for amplified music.

Management of the Premises

Mr. Steady and the other Council witnesses, both Environmental Health and Licensing, informed the committee that there had been a number of breaches of both the abatement notice and the premises licence conditions, particularly in relation to the use of the noise limiter. They referred to a number of occasions when the noise limiter had not been operating as required during live music events. As a result of their dealings with the Cricket Club on these issues, the Council's officers no longer had any confidence in the ability or commitment of the Club to address the problems or to promote the licensing objective of the prevention of public nuisance.

In response, Mr. Poplett and the other representatives from the Cricket Club explained that on one occasion the noise limiter had not been used, as there had been no-one present at the time who was able to operate it. On another occasion there had been an electrical fault preventing it from being used.

Reasons for Decision

The Sub-Committee has carefully considered all of the evidence presented regarding the extent of the problems being caused by amplified music from events taking place at the cricket club premises. They were also referred to, and took account of, the relevant

section of the S.182 Guidance (paragraph 2.19) and to the common law meaning of public nuisance, as well as the Council's licensing policy in relation to public nuisance. They were satisfied, on balance that the number and nature of the problems being caused did mean that it was appropriate to take steps to prevent public nuisance and in particular to respect residents' right to peaceful enjoyment of their property as stated in Wiltshire Council's Statement of Licensing Policy.

The Sub-committee accepted the evidence presented by Graham Steady, Public Protection Manager and Richard Francis, Senior Environmental Health Officer that the structure of the Cricket Club premises meant that noise is easily transmitted in the direction of Downhayes Road. They considered that the premises, as they currently exist were unsuitable for amplified music events. They did not feel that there were any suitable conditions that could be placed on the premises licence that would satisfactorily address the problems.

The Sub-Committee also concluded that, given the history of the Club's dealings with both Environmental Health and Licensing Officers, they had no confidence that the current management structure of the club would comply with any further conditions relating to live and amplified music that the Sub Committee could impose.

The Sub-committee therefore concluded that, in order to promote the licensing objective of preventing public nuisance, it was appropriate to remove both amplified live music and recorded music from the licensable activities permitted under the premises licence. They also concluded that it would be appropriate to disapply the provisions of the Live Music Act 2012, so that the restrictions on live music would apply at all times.

The decision to remove recorded music from the permitted licensable activities does not prevent the playing of incidental music, in accordance with Part 2 of Schedule 1 to the Licensing Act 2003.

In reaching its decision the Sub Committee has considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. The amendments to the licence will not come into effect until the period for appeal has expired or, if an appeal is made, until that appeal has been disposed of.